

Application No. 09/589,675

LSCP 1000-1

**REMARKS**

In the Official Action mailed 11 February 2004, the Examiner reviewed claims 1-33. The Examiner has allowed claims 17-21; has rejected claims 1-5, 9, 11-14, 22-27 and 33 under 35 U.S.C. 102(b); has rejected claims 28-32 under 35 U.S.C. 103(a); and objected to claims 6-8 15 and 16.

Applicant has amended claims 1, 6, 10, 15, 22, 26 and 33. Claims 1-33 remain pending. Each of the Examiner's objections and rejections is respectfully traversed below.

**Rejection of Claims 1-5, 9, 11-14, 22-27 and 33 under 35 U.S.C. 102(b)**

The Examiner rejected claims 1-5, 9, 11-14, 22-27 and 33 under 35 U.S.C. 102(b) as being anticipated by Kosa, U.S. Patent No. 4,695,697. Applicant has amended the independent claims 1, 22, 26 and 33 as set forth above to clarify that diffuse radiation matches absorption characteristics of the target tissue, and that the present invention is used for treatment of tissue. Claims 2-5, 9 and 11-14 depend from claim 1. Claims 23-25 depend from claim 22. Claim 27 depends from claim 26.

Kosa, on the other hand, describes a catheter tip sensor based on fluorescent radiation that is fed back to sensors monitoring the catheter output or temperature. In Kosa, it is the laser radiation that is used for treatment; not the diffuse fluorescent radiation as required by the claims as amended. Kosa's fluorescent radiation is solely and explicitly used for sensing conditions, primarily the temperature, at the tip of a catheter. See Kosa, Abstract; Col. 2: lines 14, 68; Col. 5, lines 48-56; Col. 9: line 64-Col. 10, line 3; Col. 12, lines 46-65.

In Kosa, no possible interaction of diffuse radiation with target tissue is mentioned. In fact it is not clear from Kosa whether its fluorescent radiation is in fact directed to the target tissue. The Examiner appears to take the position that direction of the fluorescent radiation to the target tissue is inherent in Kosa, because of the structure of the catheter tip. However, Applicant finds no discussion of the fluorescent radiation interaction with target tissue in Kosa. Furthermore, it is not stated in Kosa where the target tissue lies with respect to the output laser radiation, nor with respect to any fluorescent radiation that might escape the tip of the catheter. Therefore the Examiner's apparent position that the direction of at least a portion of the fluorescent radiation to the target tissue would be inherent in Kosa is believed incorrect.

Accordingly, reconsideration of the rejection of claims 1-5, 9, 11-14, 22-27 and 33 is respectfully requested in view of the amendments.

Application No. 09/589,675

LSCP 1000-1

Rejection of Claims 28-32 under 35 U.S.C. 103(a)

Claims 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kosa in view of Anderson et al., U.S. Patent No. 5,735,844. Claims 28-32 depend from claim 26 as amended, and are allowable for at least the same reasons. Furthermore, each of the claims recites a unique combination not suggested by the art.

Accordingly, reconsideration of rejected claims 28-32, in view of the amendments, is respectfully requested.

Objection to Claims 6-8, 10, 15 and 16

The Examiner indicated that claims 6-8, 10, 15 and 16 would be allowable if presented in independent form including all limitations of their respective base claims. Applicant has amended claims 6, 10 and 15 to overcome the objection. Claims 7 and 8 depend from claim 6. Claim 16 depends from claim 15. Accordingly, reconsideration of the objection to such claims is requested in view of the amendments.

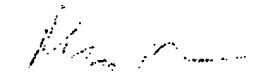
**CONCLUSION**

It is respectfully submitted that this application is now in condition for allowance.

The Commissioner is hereby authorized to charge any fee determined to be due in connection with this communication, or credit any overpayment, to our Deposit Account No. 50-0869 (LSCP 1000-1).

Respectfully submitted,

Dated: May 5, 2004



Mark A. Haynes, Reg. No. 30,846

HAYNES BEFFEL & WOLFELD LLP  
P.O. Box 366  
Half Moon Bay, CA 94019  
(650) 712-0340 phone  
(650) 712-0263 fax